

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ORZELL LONG,  
Plaintiff,

v.

CITY OF SAN FRANCISCO, et al.,  
Defendants.

Case No. [12-cv-01424-JCS](#)

**ORDER DENYING PLAINTIFF'S  
MOTION FOR LEAVE TO APPEAL *IN*  
*FORMA PAUPERIS* AND CERTIFYING  
THAT APPEAL IS NOT TAKEN IN  
GOOD FAITH**

**Dkt. No. 58**

Plaintiff has filed a Notice of Appeal of the Court's September 6, 2013 Order Granting in Part Defendants' Motion for Summary Judgment and Remanding to State Court ("Order"). *See* Dkt. Nos. 55, 57. Plaintiff also filed a Motion for Leave to Appeal *In Forma Pauperis*. *See* Dkt. No. 58.

A litigant who seeks to be excused from paying the filing fee for an appeal in a federal case may apply for *in forma pauperis* ("IFP") status under 28 U.S.C. § 1915. *See also* Fed.R.App.P. 24(a). To qualify for IFP status, the litigant must demonstrate that he or she cannot afford to pay the full filing fee. 28 U.S.C. § 1915(a)(1). Even if a litigant is found to be indigent, however, IFP status will be denied if the Court finds that the litigant's appeal is not taken in "good faith." 28 U.S.C. § 1915(a)(3).

Good faith in this context is judged by an objective standard and not by the subjective beliefs of the appellant. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962). To determine whether an appeal is taken in good faith, the Court must decide whether the claims to be decided on appeal are frivolous. *Id.* An appeal is frivolous, and therefore cannot be taken in good faith,

1 “where it lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325  
2 (1989).

3 For the reasons set forth in the Court’s Order, the Court certifies that Plaintiff’s appeal is  
4 not taken in good faith as the claims arising under 42 U.S.C. § 1983 are frivolous. Accordingly,  
5 Plaintiff’s Motion for Leave to Appeal *In Forma Pauperis* is DENIED.

6 **IT IS SO ORDERED.**

7 Dated: September 19, 2013

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9 JOSEPH C. SPERO  
United States Magistrate Judge